

REMARKS

Claims 1-20 are pending.

I. The Restriction Requirement and Applicant's Provisional Election

The Examiner required restriction, under 35 U.S.C. § 121, and considers the application to contain separate and distinct inventions, directed to nine groups designated Groups I-IX.

Additionally, the Examiner believes that each group contains multiple sequences. Therefore, if Groups I-IX are elected, the Examiner believes a single sequence must be chosen for examination.

In response, Applicants hereby elect, **with traverse**, Group I, claims 1-9, drawn to an isolated polynucleotide. Applicants also elect SEQ ID No: 47 for examination.

II. The Search Of Additional Sequences SEQ ID No: 8, 20, and 27 Is Not Unduly Burdensome

Applicants have elected SEQ ID No: 47. The current invention is drawn to isolated polynucleotides that are involved in the regulation of vascular preferred transcription. SEQ ID No: 47, as well as SEQ ID MOs: 8, 20, and 27 are polynucleotides characterized in the regulation of Cellulose Synthase within the application. Applicants note MPEP § 803.04 (August 2005) states:

It has been determined that normally ten sequences constitute a reasonable number for examination purposes. Accordingly, in most cases, up to **ten** independent and distinct nucleotide sequences will be examined in a single application without restriction. In addition to the specifically selected sequences, those sequences which are patentably indistinct from the selected sequences will also be examined. Furthermore, nucleotide sequences encoding the same protein are not considered to be independent and distinct inventions and will continue to be examined together.

The sequences selected are promoter sequences and not sequences claimed to be part of a coding region for amino acids in a protein. The sequences share the ability to regulate Cellulose Synthase proteins. As the claims and above regulations provide for the examination of multiple sequences, Applicants urge the examination of SEQ ID Nos: 47, 8, 20, and 27 with regards to the present application and believe such an examination is not unduly burdensome.

III. The Search Of Groups I-IX With Regards to the Elected Sequence Is Not Unduly Burdensome

Applicants additionally traverse the restriction requirement on the grounds that the search and examination of Groups I-IX with regards to the elected sequence SEQ ID No: 47 is not unduly burdensome. According to MPEP section 803 “if a search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent and distinct inventions.” As the nucleic acid of Group I is part of the plants and methods employed in Groups II-IX, Applicants suggest examination of Groups I-IX can be made without serious burden. In particular, as Applicants have elected Group I, SEQ ID No: 47, it is respectfully requested that claims of Groups II-IX be rejoined with the claims of Group I.

As noted above, Applicants believe SEQ ID NOs: 47, 8, 20, and 27 should be examined. As the nucleic acid of Group I is part of the plants and methods employed in Groups II-IX, Applicants suggest examination of Groups I-IX can be made without serious burden. In particular, Applicants respectfully requested that claims of Groups II-IX be rejoined with the claims of Group I for the examination of SEQ ID Nos: 47, 8, 20, and 27.

IV. Conclusion

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

If there are any fees due in connection with the filing of this response, please charge the fees to Deposit Account No. 19-0741. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should be charged to our Deposit Account.

Respectfully submitted,

Michael M. Men
Reg No 34,717

Date Jan 23, 2006

By _____

FOLEY & LARDNER LLP

Customer Number:

22428

Telephone: (202) 672-5483

Facsimile: (202) 672-5399

for

Richard C. Peet

Attorney for Applicant

Registration No. 35,792